



IN THE
Supreme Court of the United States

OCTOBER TERM, 1978

No. 78 - 948

ANTHONY TINGHINO,

Petitioner,

vs.

UNITED STATES OF AMERICA,

Respondent.

**On Petition For A Writ Of Certiorari To The United
States Court Of Appeals For The Seventh Circuit**

REPLY OF PETITIONER

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The Solicitor General in the Memorandum for the United States in Opposition suggests at page 3 that petitioner waived his objections to presentment of irrelevant and prejudicial matters before the jury.

The Court should note that immediately after and because of the opening statement of Tucker's counsel, prior to introduction of any evidence, petitioner moved for a mistrial and severance (Tr. 9).

Similarly, timely objections were made elsewhere, and it should be noted that the Solicitor has not pointed out any specific instances of waiver. Petitioner does recall that the whole question of uncontroverted innuendo was exacerbated by a paragraph in the indictment which charged petitioner with distributing money to persons responsible for investigation of certain of the fires set forth in the indictment (Rec. 1, par. 12). Denial of a request for a bill of particulars identifying the persons to whom money was distributed (Rec. 12, par. 20) contributed to the confusion. Until the evidence was closed, it would not be known that the government would present no evidence on police bribery. Even if, therefore, specific instances of failure to object could be found, in the context of confusion over the charges, there could be no waiver.

Respectfully submitted,

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